

opposite so it put the burden back on the product manufacturer. That is not what is being done here. The issues with respect to the amendment of ways to show that the useful safe life is either greater or less than ten years are identified and I think that Senator Kristensen raises an interesting issue with respect to the state of the art or the codes or standards at the time the product is constructed. Those are not part of the ways to determine whether a product has extended beyond its useful safe life and I'll give you an example. I think we might have had air bags ten years ago, I don't remember, but they certainly weren't in broad use. Today, however, we have them, they're available. You could probably make an argument that a vehicle that perhaps is not equipped with the state of the art technology air bags probably is not a safe product. However, I think it would be unfair to insist that a technology that was not available or state of the art 50 years ago is somehow state of the art now. There may be some consideration given with respect to those things which frankly are not part of the amendment. Answer to some of Senator Wehrbein's questions in the handout that Senator Will distributed, frankly, and I've looked at those too. There's about ten different examples. The fact that they're on that sheet doesn't mean that there would be a cause of action that would be sustained. You know you could have comparative negligence, you could have the argument made, you know the product was defective but the individual who stuck his hand in that area that is clearly dangerous is liable himself. He is negligent himself and this Legislature last year went to a comparative negligent standard. If a jury says, you know, I can see that there should have been a shield on that product, but golly, you should have seen that that was dangerous to put your hand in there and reach in after a moving product. You shouldn't have done that and, therefore, you're liable. If in fact they find that, then that person is not going to recover or certainly his recovery is going to be reduced. That does not mean necessarily that there is going to be a cause of action. I talked to, I happen to have a lot of small manufacturers in my district and I asked them about this original bill and I talked to them about useful safe life and I think Senator Kristensen is about half right. There probably will be additional litigation. There will be...they told me that, Senator Kristensen, if you're half right that's more than your average, so...

PRESIDENT MOUL: One minute.

SENATOR HOHENSTEIN: ...there may be more litigation, but that